

1 A bill to be entitled
2 An act relating to condominiums; amending s. 718.111,
3 F.S.; removing provision providing for windstorm insurance
4 for condominium associations; requiring official records
5 of the association to be maintained for at least 5 years
6 and to be made available at certain locations; providing
7 civil and criminal sanctions, including personally against
8 any officer, director, or manager who knowingly or
9 intentionally defaces, destroys, or fails to create or
10 maintain accounting records; prohibiting accessibility to
11 certain personal identifying information of unit owners by
12 fellow unit owners; restricting a condominium association
13 from waiving a financial report for more than 2 years;
14 amending s. 718.112, F.S.; prohibiting votes allocated to
15 units owned by the association from being cast by proxy,
16 ballot or otherwise, for any purpose; requiring the board
17 to address certain agenda items proposed by a petition of
18 a specified percent of the unit owners; providing
19 requirements for the location of annual unit owner
20 meetings; revising notice procedures; providing for the
21 securing of ballots; revising procedures relating to the
22 filling of a vacancy on the board; authorizing persons
23 acting under a specific power of attorney to vote on
24 behalf of a unit owner; removing a provision allowing an
25 association to provide for different voting and election
26 procedures in its bylaws; requiring the association to
27 prepare an annual budget of estimated revenues and
28 expenses; requiring certain ballot statements to contain

29 certain statements; requiring a vote to provide for no
 30 reserves or a percentage of reserves to be made at annual
 31 meetings; authorizing the association to use reserve funds
 32 for nonscheduled purposes under certain conditions;
 33 amending s. 718.113, F.S.; requiring the board to have the
 34 condominium buildings periodically inspected for
 35 structural and electrical soundness by a professional
 36 engineer or professional architect registered in the
 37 state; requiring the inspector to provide a report to the
 38 association and unit owners; prohibiting the board from
 39 adopting rules or regulations impairing certain rights or
 40 prohibiting reasonable accommodation for religious
 41 practices; creating s. 718.1224, F.S.; prohibiting certain
 42 lawsuits arising from unit owners' appearances and
 43 presentations before a governmental entity; providing a
 44 definition; providing for award of damages and attorney
 45 fees; prohibiting associations from expending association
 46 funds in prosecuting such a suit against a unit owner;
 47 providing an effective date.

48
 49 Be It Enacted by the Legislature of the State of Florida:

50
 51 Section 1. Paragraph (a) of subsection (11), paragraphs
 52 (a), (b), and (c) of subsection (12), and subsection (13) of
 53 section 718.111, Florida Statutes, are amended to read:

54 718.111 The association.--
 55 (11) INSURANCE.--In order to protect the safety, health,
 56 and welfare of the people of the State of Florida and to ensure

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57 consistency in the provision of insurance coverage to
58 condominiums and their unit owners, paragraphs (a), (b), and (c)
59 are deemed to apply to every residential condominium in the
60 state, regardless of the date of its declaration of condominium.
61 It is the intent of the Legislature to encourage lower or stable
62 insurance premiums for associations described in this section.
63 Therefore, the Legislature requires a report to be prepared by
64 the Office of Insurance Regulation of the Department of
65 Financial Services for publication 18 months from the effective
66 date of this act, evaluating premium increases or decreases for
67 associations, unit owner premium increases or decreases,
68 recommended changes to better define common areas, or any other
69 information the Office of Insurance Regulation deems
70 appropriate.

71 (a)1. A unit-owner controlled association operating a
72 residential condominium shall use its best efforts to obtain and
73 maintain adequate insurance to protect the association, the
74 association property, the common elements, and the condominium
75 property required to be insured by the association pursuant to
76 paragraph (b). If the association is developer controlled, the
77 association shall exercise due diligence to obtain and maintain
78 such insurance. Failure to obtain and maintain adequate
79 insurance during any period of developer control shall
80 constitute a breach of fiduciary responsibility by the
81 developer-appointed members of the board of directors of the
82 association, unless said members can show that despite such
83 failure, they have exercised due diligence. The declaration of
84 condominium as originally recorded, or amended pursuant to

85 procedures provided therein, may require that condominium
86 property consisting of freestanding buildings where there is no
87 more than one building in or on such unit need not be insured by
88 the association if the declaration requires the unit owner to
89 obtain adequate insurance for the condominium property. An
90 association may also obtain and maintain liability insurance for
91 directors and officers, insurance for the benefit of association
92 employees, and flood insurance for common elements, association
93 property, and units. Adequate insurance, regardless of any
94 requirement in the declaration of condominium for coverage by
95 the association for "full insurable value," "replacement cost,"
96 or the like, may include reasonable deductibles as determined by
97 the board based upon available funds or predetermined assessment
98 authority at the time that the insurance is obtained.

99 ~~1. Windstorm insurance coverage for a group of no fewer
100 than three communities created and operating under this chapter,
101 chapter 719, chapter 720, or chapter 721 may be obtained and
102 maintained for the communities if the insurance coverage is
103 sufficient to cover an amount equal to the probable maximum loss
104 for the communities for a 250 year windstorm event. Such
105 probable maximum loss must be determined through the use of a
106 competent model that has been accepted by the Florida Commission
107 on Hurricane Loss Projection Methodology. Such insurance
108 coverage is deemed adequate windstorm insurance for the purposes
109 of this section.~~

110 2. An association or group of associations may self-insure
111 against claims against the association, the association
112 property, and the condominium property required to be insured by

113 an association, upon compliance with the applicable provisions
 114 of ss. 624.460-624.488, which shall be considered adequate
 115 insurance for the purposes of this section. A copy of each
 116 policy of insurance in effect shall be made available for
 117 inspection by unit owners at reasonable times.

118 (12) OFFICIAL RECORDS.--

119 (a) From the inception of the association, the association
 120 shall maintain each of the following items, when applicable,
 121 which shall constitute the official records of the association:

122 1. A copy of the plans, permits, warranties, and other
 123 items provided by the developer pursuant to s. 718.301(4).

124 2. A photocopy of the recorded declaration of condominium
 125 of each condominium operated by the association and of each
 126 amendment to each declaration.

127 3. A photocopy of the recorded bylaws of the association
 128 and of each amendment to the bylaws.

129 4. A certified copy of the articles of incorporation of
 130 the association, or other documents creating the association,
 131 and of each amendment thereto.

132 5. A copy of the current rules of the association.

133 6. A book or books which contain the minutes of all
 134 meetings of the association, of the board of administration
 135 ~~directors~~, and of unit owners, which minutes shall be retained
 136 for a period of not less than 7 years.

137 7. A current roster of all unit owners and their mailing
 138 addresses, unit identifications, voting certifications, and, if
 139 known, telephone numbers. The association shall also maintain
 140 the electronic mailing addresses and the numbers designated by

141 unit owners for receiving notice sent by electronic transmission
142 of those unit owners consenting to receive notice by electronic
143 transmission. The electronic mailing addresses and numbers
144 provided by unit owners to receive notice by electronic
145 transmission shall be removed from association records when
146 consent to receive notice by electronic transmission is revoked.
147 However, the association is not liable for an erroneous
148 disclosure of the electronic mail address or the number for
149 receiving electronic transmission of notices.

150 8. All current insurance policies of the association and
151 condominiums operated by the association.

152 9. A current copy of any management agreement, lease, or
153 other contract to which the association is a party or under
154 which the association or the unit owners have an obligation or
155 responsibility.

156 10. Bills of sale or transfer for all property owned by
157 the association.

158 11. Accounting records for the association and separate
159 accounting records for each condominium which the association
160 operates. All accounting records shall be maintained for a
161 period of not less than 7 years. Any officer, director, or
162 manager who knowingly or intentionally defaces, destroys, or
163 fails to create or maintain accounting records is personally
164 subject to a civil penalty pursuant to s. 718.501(1)(d) and
165 appropriate criminal sanctions. The accounting records shall
166 include, but are not limited to:

167 a. Accurate, itemized, and detailed records of all
168 receipts and expenditures.

169 b. A current account and a monthly, bimonthly, or
 170 quarterly statement of the account for each unit designating the
 171 name of the unit owner, the due date and amount of each
 172 assessment, the amount paid upon the account, and the balance
 173 due.

174 c. All audits, reviews, accounting statements, and
 175 financial reports of the association or condominium.

176 d. All contracts for work to be performed. Bids for work
 177 to be performed shall also be considered official records and
 178 shall be maintained for a period of 1 year.

179 12. Ballots, sign-in sheets, voting proxies, and all other
 180 papers relating to voting by unit owners, which shall be
 181 maintained for a period of 1 year from the date of the election,
 182 vote, or meeting to which the document relates.

183 13. All rental records, when the association is acting as
 184 agent for the rental of condominium units.

185 14. A copy of the current question and answer sheet as
 186 described by s. 718.504.

187 15. All other records of the association not specifically
 188 included in the foregoing which are related to the operation of
 189 the association.

190 (b) The official records of the association shall be
 191 maintained within the state for at least 5 years. The records of
 192 the association shall be made available to a unit owner, at a
 193 location within the county in which the condominium property is
 194 located, within 5 working days after receipt of written request
 195 by the board or its designee. This paragraph may be complied
 196 with by having a copy of the official records of the association

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197 available for inspection or copying on the condominium property
198 or association property.

199 (c) The official records of the association are open to
200 inspection by any association member or the authorized
201 representative of such member at all reasonable times. The right
202 to inspect the records includes the right to make or obtain
203 copies, at the reasonable expense, if any, of the association
204 member. The association may adopt reasonable rules regarding the
205 frequency, time, location, notice, and manner of record
206 inspections and copying. The failure of an association to
207 provide the records within 10 working days after receipt of a
208 written request shall create a rebuttable presumption that the
209 association willfully failed to comply with this paragraph. A
210 unit owner who is denied access to official records is entitled
211 to the actual damages or minimum damages for the association's
212 willful failure to comply with this paragraph. The minimum
213 damages shall be \$50 per calendar day up to 10 days, the
214 calculation to begin on the 11th working day after receipt of
215 the written request. The failure to permit inspection of the
216 association records as provided herein entitles any person
217 prevailing in an enforcement action to recover reasonable
218 attorney's fees from the person in control of the records who,
219 directly or indirectly, knowingly denied access to the records
220 for inspection. Any officer, director, or manager who knowingly
221 or intentionally defaces, destroys, or fails to create or
222 maintain accounting records is personally subject to a civil
223 penalty pursuant to s. 718.501(1)(d) and appropriate criminal
224 sanctions. The association shall maintain an adequate number of

225 | copies of the declaration, articles of incorporation, bylaws,
 226 | and rules, and all amendments to each of the foregoing, as well
 227 | as the question and answer sheet provided for in s. 718.504 and
 228 | year-end financial information required in this section on the
 229 | condominium property to ensure their availability to unit owners
 230 | and prospective purchasers, and may charge its actual costs for
 231 | preparing and furnishing these documents to those requesting the
 232 | same. Notwithstanding the provisions of this paragraph, the
 233 | following records shall not be accessible to unit owners:

234 | 1. Any record protected by the lawyer-client privilege as
 235 | described in s. 90.502; and any record protected by the work-
 236 | product privilege, including any record prepared by an
 237 | association attorney or prepared at the attorney's express
 238 | direction; which reflects a mental impression, conclusion,
 239 | litigation strategy, or legal theory of the attorney or the
 240 | association, and which was prepared exclusively for civil or
 241 | criminal litigation or for adversarial administrative
 242 | proceedings, or which was prepared in anticipation of imminent
 243 | civil or criminal litigation or imminent adversarial
 244 | administrative proceedings until the conclusion of the
 245 | litigation or adversarial administrative proceedings.

246 | 2. Information obtained by an association in connection
 247 | with the approval of the lease, sale, or other transfer of a
 248 | unit.

249 | 3. Medical records of unit owners.

250 | 4. Social security numbers, driver's license numbers,
 251 | credit card numbers, and other personal identifying information
 252 | of unit owners, occupants, or tenants.

253 (13) FINANCIAL REPORTING.--Within 90 days after the end of
254 the fiscal year, or annually on a date provided in the bylaws,
255 the association shall prepare and complete, or contract for the
256 preparation and completion of, a financial report for the
257 preceding fiscal year. Within 21 days after the final financial
258 report is completed by the association or received from the
259 third party, but not later than 120 days after the end of the
260 fiscal year or other date as provided in the bylaws, the
261 association shall mail to each unit owner at the address last
262 furnished to the association by the unit owner, or hand deliver
263 to each unit owner, a copy of the financial report or a notice
264 that a copy of the financial report will be mailed or hand
265 delivered to the unit owner, without charge, upon receipt of a
266 written request from the unit owner. The division shall adopt
267 rules setting forth uniform accounting principles and standards
268 to be used by all associations and shall adopt rules addressing
269 financial reporting requirements for multicondominium
270 associations. In adopting such rules, the division shall
271 consider the number of members and annual revenues of an
272 association. Financial reports shall be prepared as follows:

273 (a) An association that meets the criteria of this
274 paragraph shall prepare or cause to be prepared a complete set
275 of financial statements in accordance with generally accepted
276 accounting principles. The financial statements shall be based
277 upon the association's total annual revenues, as follows:

278 1. An association with total annual revenues of \$100,000
279 or more, but less than \$200,000, shall prepare compiled
280 financial statements.

281 2. An association with total annual revenues of at least
 282 \$200,000, but less than \$400,000, shall prepare reviewed
 283 financial statements.

284 3. An association with total annual revenues of \$400,000
 285 or more shall prepare audited financial statements.

286 (b)1. An association with total annual revenues of less
 287 than \$100,000 shall prepare a report of cash receipts and
 288 expenditures.

289 2. An association which operates less than 50 units,
 290 regardless of the association's annual revenues, shall prepare a
 291 report of cash receipts and expenditures in lieu of financial
 292 statements required by paragraph (a).

293 3. A report of cash receipts and disbursements must
 294 disclose the amount of receipts by accounts and receipt
 295 classifications and the amount of expenses by accounts and
 296 expense classifications, including, but not limited to, the
 297 following, as applicable: costs for security, professional and
 298 management fees and expenses, taxes, costs for recreation
 299 facilities, expenses for refuse collection and utility services,
 300 expenses for lawn care, costs for building maintenance and
 301 repair, insurance costs, administration and salary expenses, and
 302 reserves accumulated and expended for capital expenditures,
 303 deferred maintenance, and any other category for which the
 304 association maintains reserves.

305 (c) An association may prepare or cause to be prepared,
 306 without a meeting of or approval by the unit owners:

307 1. Compiled, reviewed, or audited financial statements, if
 308 the association is required to prepare a report of cash receipts

309 and expenditures;

310 2. Reviewed or audited financial statements, if the
 311 association is required to prepare compiled financial
 312 statements; or

313 3. Audited financial statements if the association is
 314 required to prepare reviewed financial statements.

315 (d) If approved by a majority of the voting interests
 316 present at a properly called meeting of the association, an
 317 association may prepare or cause to be prepared:

318 1. A report of cash receipts and expenditures in lieu of a
 319 compiled, reviewed, or audited financial statement;

320 2. A report of cash receipts and expenditures or a
 321 compiled financial statement in lieu of a reviewed or audited
 322 financial statement; or

323 3. A report of cash receipts and expenditures, a compiled
 324 financial statement, or a reviewed financial statement in lieu
 325 of an audited financial statement.

326
 327 Such meeting and approval must occur prior to the end of the
 328 fiscal year and is effective only for the fiscal year in which
 329 the vote is taken. With respect to an association to which the
 330 developer has not turned over control of the association, all
 331 unit owners, including the developer, may vote on issues related
 332 to the preparation of financial reports for the first 2 fiscal
 333 years of the association's operation, beginning with the fiscal
 334 year in which the declaration is recorded. Thereafter, all unit
 335 owners except the developer may vote on such issues until
 336 control is turned over to the association by the developer. An

337 association or board of administration may not waive the
 338 financial reporting requirements of this section for more than 2
 339 consecutive years.

340 Section 2. Subsection (2) of section 718.112, Florida
 341 Statutes, is amended to read:

342 718.112 Bylaws.--

343 (2) REQUIRED PROVISIONS.--The bylaws of the association
 344 shall provide for the following and, if they do not do so, shall
 345 be deemed to include the following:

346 (a) Administration.--

347 1. The form of administration of the association shall be
 348 described indicating the title of the officers and board of
 349 administration and specifying the powers, duties, manner of
 350 selection and removal, and compensation, if any, of officers and
 351 boards. In the absence of such a provision, the board of
 352 administration shall be composed of five members, except in the
 353 case of a condominium which has five or fewer units, in which
 354 case in a not-for-profit corporation the board shall consist of
 355 not fewer than three members. In the absence of provisions to
 356 the contrary in the bylaws, the board of administration shall
 357 have a president, a secretary, and a treasurer, who shall
 358 perform the duties of such officers customarily performed by
 359 officers of corporations. Unless prohibited in the bylaws, the
 360 board of administration may appoint other officers and grant
 361 them the duties it deems appropriate. Unless otherwise provided
 362 in the bylaws, the officers shall serve without compensation and
 363 at the pleasure of the board of administration. Unless otherwise
 364 provided in the bylaws, the members of the board shall serve

365 without compensation.

366 2. When a unit owner files a written inquiry by certified
367 mail with the board of administration, the board shall respond
368 in writing to the unit owner within 30 days of receipt of the
369 inquiry. The board's response shall either give a substantive
370 response to the inquirer, notify the inquirer that a legal
371 opinion has been requested, or notify the inquirer that advice
372 has been requested from the division. If the board requests
373 advice from the division, the board shall, within 10 days of its
374 receipt of the advice, provide in writing a substantive response
375 to the inquirer. If a legal opinion is requested, the board
376 shall, within 60 days after the receipt of the inquiry, provide
377 in writing a substantive response to the inquiry. The failure to
378 provide a substantive response to the inquiry as provided herein
379 precludes the board from recovering attorney's fees and costs in
380 any subsequent litigation, administrative proceeding, or
381 arbitration arising out of the inquiry. The association may
382 through its board of administration adopt reasonable rules and
383 regulations regarding the frequency and manner of responding to
384 unit owner inquiries, one of which may be that the association
385 is only obligated to respond to one written inquiry per unit in
386 any given 30-day period. In such a case, any additional inquiry
387 or inquiries must be responded to in the subsequent 30-day
388 period, or periods, as applicable.

389 (b) Quorum; voting requirements; proxies.--

390 1. Unless a lower number is provided in the bylaws, the
391 percentage of voting interests required to constitute a quorum
392 at a meeting of the members shall be a majority of the voting

393 interests. Unless otherwise provided in this chapter or in the
394 declaration, articles of incorporation, or bylaws, and except as
395 provided in subparagraph (d)3., decisions shall be made by
396 owners of a majority of the voting interests represented at a
397 meeting at which a quorum is present.

398 2. Except as specifically otherwise provided herein, after
399 January 1, 1992, unit owners may not vote by general proxy, but
400 may vote by limited proxies substantially conforming to a
401 limited proxy form adopted by the division. Votes allocated to
402 units owned by the association may not be cast by proxy, ballot,
403 or otherwise for any purpose. Limited proxies and general
404 proxies may be used to establish a quorum. Limited proxies shall
405 be used for votes taken to waive or reduce reserves in
406 accordance with subparagraph (f)2.; for votes taken to waive the
407 financial reporting requirements of s. 718.111(13); for votes
408 taken to amend the declaration pursuant to s. 718.110; for votes
409 taken to amend the articles of incorporation or bylaws pursuant
410 to this section; and for any other matter for which this chapter
411 requires or permits a vote of the unit owners. Except as
412 provided in paragraph (d), after January 1, 1992, no proxy,
413 limited or general, shall be used in the election of board
414 members. General proxies may be used for other matters for which
415 limited proxies are not required, and may also be used in voting
416 for nonsubstantive changes to items for which a limited proxy is
417 required and given. Notwithstanding the provisions of this
418 subparagraph, unit owners may vote in person at unit owner
419 meetings. Nothing contained herein shall limit the use of
420 general proxies or require the use of limited proxies for any

421 agenda item or election at any meeting of a timeshare
422 condominium association.

423 3. Any proxy given shall be effective only for the
424 specific meeting for which originally given and any lawfully
425 adjourned meetings thereof. In no event shall any proxy be valid
426 for a period longer than 90 days after the date of the first
427 meeting for which it was given. Every proxy is revocable at any
428 time at the pleasure of the unit owner executing it.

429 4. A member of the board of administration or a committee
430 may submit in writing his or her agreement or disagreement with
431 any action taken at a meeting that the member did not attend.
432 This agreement or disagreement may not be used as a vote for or
433 against the action taken and may not be used for the purposes of
434 creating a quorum.

435 5. When any of the board or committee members meet by
436 telephone conference, those board or committee members attending
437 by telephone conference may be counted toward obtaining a quorum
438 and may vote by telephone. A telephone speaker must be used so
439 that the conversation of those board or committee members
440 attending by telephone may be heard by the board or committee
441 members attending in person as well as by any unit owners
442 present at a meeting.

443 (c) Board of administration meetings.--Meetings of the
444 board of administration at which a quorum of the members is
445 present shall be open to all unit owners. Any unit owner may
446 tape record or videotape meetings of the board of
447 administration. The right to attend such meetings includes the
448 right to speak at such meetings with reference to all designated

449 agenda items. The division shall adopt reasonable rules
450 governing the tape recording and videotaping of the meeting. The
451 association may adopt written reasonable rules governing the
452 frequency, duration, and manner of unit owner statements.
453 Adequate notice of all meetings, which notice shall specifically
454 incorporate an identification of agenda items, shall be posted
455 conspicuously on the condominium property at least 48 continuous
456 hours preceding the meeting except in an emergency. Any item not
457 included on the notice may be taken up on an emergency basis by
458 at least a majority plus one of the members of the board or by a
459 petition of 20 percent of the unit owners. Such emergency action
460 shall be noticed and ratified at the next regular meeting of the
461 board. However, written notice of any meeting at which
462 nonemergency special assessments, or at which amendment to rules
463 regarding unit use, will be considered shall be mailed,
464 delivered, or electronically transmitted to the unit owners and
465 posted conspicuously on the condominium property not less than
466 14 days prior to the meeting. Evidence of compliance with this
467 14-day notice shall be made by an affidavit executed by the
468 person providing the notice and filed among the official records
469 of the association. Upon notice to the unit owners, the board
470 shall by duly adopted rule designate a specific location on the
471 condominium property or association property upon which all
472 notices of board meetings shall be posted. If there is no
473 condominium property or association property upon which notices
474 can be posted, notices of board meetings shall be mailed,
475 delivered, or electronically transmitted at least 14 days before
476 the meeting to the owner of each unit. In lieu of or in addition

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477 to the physical posting of notice of any meeting of the board of
478 administration on the condominium property, the association may,
479 by reasonable rule, adopt a procedure for conspicuously posting
480 and repeatedly broadcasting the notice and the agenda on a
481 closed-circuit cable television system serving the condominium
482 association. However, if broadcast notice is used in lieu of a
483 notice posted physically on the condominium property, the notice
484 and agenda must be broadcast at least four times every broadcast
485 hour of each day that a posted notice is otherwise required
486 under this section. When broadcast notice is provided, the
487 notice and agenda must be broadcast in a manner and for a
488 sufficient continuous length of time so as to allow an average
489 reader to observe the notice and read and comprehend the entire
490 content of the notice and the agenda. Notice of any meeting in
491 which regular or special assessments against unit owners are to
492 be considered for any reason shall specifically state ~~contain a~~
493 ~~statement~~ that assessments will be considered and the nature,
494 cost, and breakdown of any such assessments. Meetings of a
495 committee to take final action on behalf of the board or make
496 recommendations to the board regarding the association budget
497 are subject to the provisions of this paragraph. Meetings of a
498 committee that does not take final action on behalf of the board
499 or make recommendations to the board regarding the association
500 budget are subject to the provisions of this section, unless
501 those meetings are exempted from this section by the bylaws of
502 the association. Notwithstanding any other law, the requirement
503 that board meetings and committee meetings be open to the unit
504 owners is inapplicable to meetings between the board or a

505 | committee and the association's attorney, with respect to
 506 | proposed or pending litigation, when the meeting is held for the
 507 | purpose of seeking or rendering legal advice.

508 | (d) Unit owner meetings.--

509 | 1. There shall be an annual meeting of the unit owners
 510 | held at the location provided in the association bylaws; and, if
 511 | the bylaws are silent as to the location, the meeting shall be
 512 | held in the state within 30 miles of the condominium property.

513 | Unless the bylaws provide otherwise, a vacancy on the board
 514 | caused by the expiration of a director's term shall be filled by
 515 | electing a new board member, and the election shall be by secret
 516 | ballot; however, if the number of vacancies equals or exceeds
 517 | the number of candidates, no election is required. If there is
 518 | no provision in the bylaws for terms of the members of the
 519 | board, the terms of all members of the board shall expire upon
 520 | the election of their successors at the annual meeting. Any unit
 521 | owner desiring to be a candidate for board membership shall
 522 | comply with subparagraph 3. A person is not eligible for board
 523 | membership if that person ~~who~~ has been convicted of any felony
 524 | by any court of record in the United States and who has not had
 525 | his or her right to vote restored pursuant to law in the
 526 | jurisdiction of his or her residence ~~is not eligible for board~~
 527 | ~~membership~~. The validity of an action by the board is not
 528 | affected if it is later determined that a member of the board is
 529 | ineligible for board membership due to having been convicted of
 530 | a felony.

531 | 2. The bylaws shall provide the method of calling meetings
 532 | of unit owners, including annual meetings. Written notice, which

533 notice must include an agenda, shall be mailed, hand delivered,
534 or electronically transmitted to each unit owner at least 14
535 days prior to the annual meeting and shall be posted in a
536 conspicuous place on the condominium property at least 14
537 continuous days preceding the annual meeting. Upon notice to the
538 unit owners, the board shall by duly adopted rule designate a
539 specific location on the condominium property or association
540 property upon which all notices of unit owner meetings shall be
541 posted; however, if there is no condominium property or
542 association property upon which notices can be posted, this
543 requirement does not apply. In lieu of or in addition to the
544 physical posting of notice of any meeting of the unit owners on
545 the condominium property, the association may, by reasonable
546 rule, adopt a procedure for conspicuously posting and repeatedly
547 broadcasting the notice and the agenda on a closed-circuit cable
548 television system serving the condominium association. However,
549 if broadcast notice is used in lieu of a notice posted
550 physically on the condominium property, the notice and agenda
551 must be broadcast at least four times every broadcast hour of
552 each day that a posted notice is otherwise required under this
553 section. When broadcast notice is provided, the notice and
554 agenda must be broadcast in a manner and for a sufficient
555 continuous length of time so as to allow an average reader to
556 observe the notice and read and comprehend the entire content of
557 the notice and the agenda. Unless a unit owner waives in writing
558 the right to receive notice of the annual meeting, such notice
559 shall be hand delivered, mailed, or electronically transmitted
560 to each unit owner. Notice for meetings and notice for all other

561 purposes shall be mailed to each unit owner at the address last
562 furnished to the association by the unit owner, or hand
563 delivered to each unit owner. However, if a unit is owned by
564 more than one person, the association shall provide notice, for
565 meetings and all other purposes, to that one address which the
566 developer initially identifies for that purpose and thereafter
567 as one or more of the owners of the unit shall so advise the
568 association in writing, or if no address is given or the owners
569 of the unit do not agree, to the address provided on the deed of
570 record. An officer of the association, or the manager or other
571 person providing notice of the association meeting, shall
572 provide an affidavit or United States Postal Service certificate
573 of mailing, to be included in the official records of the
574 association affirming that the notice was mailed or hand
575 delivered, in accordance with this provision.

576 3. The members of the board shall be elected by written
577 ballot or voting machine. Proxies shall in no event be used in
578 electing the board, either in general elections or elections to
579 fill vacancies caused by recall, resignation, or otherwise,
580 unless otherwise provided in this chapter. Not less than 60 days
581 before a scheduled election, the association or its
582 representative shall mail, deliver, or electronically transmit,
583 whether by separate association mailing or included in another
584 association mailing, delivery, or transmission, including
585 regularly published newsletters, to each unit owner entitled to
586 a vote, a first notice of the date of the election. Any unit
587 owner or other eligible person desiring to be a candidate for
588 the board must give written notice to the association or its

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589 representative not less than 40 days before a scheduled
590 election. Together with the written notice and agenda as set
591 forth in subparagraph 2., the association or its representative
592 shall mail, deliver, or electronically transmit a second notice
593 of the election to all unit owners entitled to vote therein,
594 together with a ballot which shall list all candidates. Upon
595 request of a candidate, the association or its representative
596 shall include an information sheet, no larger than 8 1/2 inches
597 by 11 inches, which must be furnished by the candidate not less
598 than 35 days before the election, to be included with the
599 mailing, delivery, or transmission of the ballot, with the costs
600 of mailing, delivery, or electronic transmission and copying to
601 be borne by the association. An officer of the association, or
602 the manager or other person providing the first and second
603 notices, shall provide an affidavit or United States Postal
604 Service certificate of mailing, to be included in the official
605 records of the association, affirming that the notices were
606 mailed or hand delivered in accordance with this subparagraph.
607 The association or its representative is not liable for the
608 contents of the information sheets prepared by the candidates.
609 In order to reduce costs, the association may print or duplicate
610 the information sheets on both sides of the paper. The division
611 shall by rule establish voting procedures consistent with the
612 provisions contained herein, including rules establishing
613 procedures for giving notice by electronic transmission and
614 rules providing for the secrecy of ballots. All ballot envelopes
615 must be placed in a locked or sealed ballot drop box immediately
616 upon receipt, and the box shall not be opened in advance of the

617 election meeting. Elections shall be decided by a plurality of
618 those ballots cast. There shall be no quorum requirement;
619 however, at least 20 percent of the eligible voters must cast a
620 ballot in order to have a valid election of members of the
621 board. No unit owner shall permit any other person to vote his
622 or her ballot, except for a person acting under a specific power
623 of attorney, and any such ballots improperly cast shall be
624 deemed invalid, provided any unit owner who violates this
625 provision may be fined by the association in accordance with s.
626 718.303. A unit owner who needs assistance in casting the ballot
627 for the reasons stated in s. 101.051 may obtain assistance in
628 casting the ballot. The regular election shall occur on the date
629 of the annual meeting. The provisions of this subparagraph shall
630 not apply to timeshare condominium associations. Notwithstanding
631 the provisions of this subparagraph, an election is not required
632 unless more candidates file notices of intent to run or are
633 nominated than board vacancies exist.

634 4. Any approval by unit owners called for by this chapter
635 or the applicable declaration or bylaws, including, but not
636 limited to, the approval requirement in s. 718.111(8), shall be
637 made at a duly noticed meeting of unit owners and shall be
638 subject to all requirements of this chapter or the applicable
639 condominium documents relating to unit owner decisionmaking,
640 except that unit owners may take action by written agreement,
641 without meetings, on matters for which action by written
642 agreement without meetings is expressly allowed by the
643 applicable bylaws or declaration or any statute that provides
644 for such action.

645 5. Unit owners may waive notice of specific meetings if
646 allowed by the applicable bylaws or declaration or any statute.
647 If authorized by the bylaws, notice of meetings of the board of
648 administration, unit owner meetings, except unit owner meetings
649 called to recall board members under paragraph (j), and
650 committee meetings may be given by electronic transmission to
651 unit owners who consent to receive notice by electronic
652 transmission.

653 6. Unit owners shall have the right to participate in
654 meetings of unit owners with reference to all designated agenda
655 items. However, the association may adopt reasonable rules
656 governing the frequency, duration, and manner of unit owner
657 participation.

658 7. Any unit owner may tape record or videotape a meeting
659 of the unit owners subject to reasonable rules adopted by the
660 division.

661 8. Unless otherwise provided in the bylaws, any vacancy
662 occurring on the board before the expiration of a term may be
663 filled by the affirmative vote of the majority of the remaining
664 directors, even if the remaining directors constitute less than
665 a quorum, or by the sole remaining director. In the alternative,
666 a board may hold an election to fill the vacancy, in which case
667 the election procedures must conform to the requirements of
668 subparagraph 3. ~~unless the association has opted out of the~~
669 ~~statutory election process, in which case the bylaws of the~~
670 ~~association control.~~ Unless otherwise provided in the bylaws, a
671 board member appointed or elected under this section shall fill
672 the vacancy for the unexpired term of the seat being filled.

673 Filling vacancies created by recall is governed by paragraph (j)
 674 and rules adopted by the division.

675
 676 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~
 677 ~~may, by the affirmative vote of a majority of the total voting~~
 678 ~~interests, provide for different voting and election procedures~~
 679 ~~in its bylaws, which vote may be by a proxy specifically~~
 680 ~~delineating the different voting and election procedures. The~~
 681 ~~different voting and election procedures may provide for~~
 682 ~~elections to be conducted by limited or general proxy.~~

683 (e) Budget meeting.--

684 1. Any meeting at which a proposed annual budget of an
 685 association will be considered by the board or unit owners shall
 686 be open to all unit owners. At least 14 days prior to such a
 687 meeting, the board shall hand deliver to each unit owner, mail
 688 to each unit owner at the address last furnished to the
 689 association by the unit owner, or electronically transmit to the
 690 location furnished by the unit owner for that purpose a notice
 691 of such meeting and a copy of the proposed annual budget. An
 692 officer or manager of the association, or other person providing
 693 notice of such meeting, shall execute an affidavit evidencing
 694 compliance with such notice requirement, and such affidavit
 695 shall be filed among the official records of the association.

696 2.a. If a board adopts in any fiscal year an annual budget
 697 which requires assessments against unit owners which exceed 115
 698 percent of assessments for the preceding fiscal year, the board
 699 shall conduct a special meeting of the unit owners to consider a
 700 substitute budget if the board receives, within 21 days after

701 adoption of the annual budget, a written request for a special
702 meeting from at least 10 percent of all voting interests. The
703 special meeting shall be conducted within 60 days after adoption
704 of the annual budget. At least 14 days prior to such special
705 meeting, the board shall hand deliver to each unit owner, or
706 mail to each unit owner at the address last furnished to the
707 association, a notice of the meeting. An officer or manager of
708 the association, or other person providing notice of such
709 meeting shall execute an affidavit evidencing compliance with
710 this notice requirement, and such affidavit shall be filed among
711 the official records of the association. Unit owners may
712 consider and adopt a substitute budget at the special meeting. A
713 substitute budget is adopted if approved by a majority of all
714 voting interests unless the bylaws require adoption by a greater
715 percentage of voting interests. If there is not a quorum at the
716 special meeting or a substitute budget is not adopted, the
717 annual budget previously adopted by the board shall take effect
718 as scheduled.

719 b. Any determination of whether assessments exceed 115
720 percent of assessments for the prior fiscal year shall exclude
721 any authorized provision for reasonable reserves for repair or
722 replacement of the condominium property, anticipated expenses of
723 the association which the board does not expect to be incurred
724 on a regular or annual basis, or assessments for betterments to
725 the condominium property.

726 c. If the developer controls the board, assessments shall
727 not exceed 115 percent of assessments for the prior fiscal year
728 unless approved by a majority of all voting interests.

729 (f) Annual budget.--

730 1. The association shall prepare an annual budget of
731 estimated revenues and expenses. The adopted budget of the prior
732 fiscal year shall remain in effect until the association has
733 adopted a new budget for the current fiscal year. The proposed
734 annual budget of estimated revenues and ~~common~~ expenses shall be
735 detailed and shall show the amounts budgeted by accounts and
736 expense classifications, including, if applicable, but not
737 limited to, those expenses listed in s. 718.504(21). A
738 multicondominium association shall adopt a separate budget of
739 common expenses for each condominium the association operates
740 and shall adopt a separate budget of common expenses for the
741 association. In addition, if the association maintains limited
742 common elements with the cost to be shared only by those
743 entitled to use the limited common elements as provided for in
744 s. 718.113(1), the budget or a schedule attached thereto shall
745 show amounts budgeted therefor. If, after turnover of control of
746 the association to the unit owners, any of the expenses listed
747 in s. 718.504(21) are not applicable, they need not be listed.

748 2. In addition to annual operating expenses, the budget
749 shall include reserve accounts for capital expenditures and
750 deferred maintenance. These accounts shall include, but are not
751 limited to, roof replacement, building painting, and pavement
752 resurfacing, regardless of the amount of deferred maintenance
753 expense or replacement cost, and for any other item for which
754 the deferred maintenance expense or replacement cost exceeds
755 \$10,000. The amount to be reserved shall be computed by means of
756 a formula which is based upon estimated remaining useful life

757 and estimated replacement cost or deferred maintenance expense
758 of each reserve item. The association may adjust replacement
759 reserve assessments annually to take into account any changes in
760 estimates or extension of the useful life of a reserve item
761 caused by deferred maintenance. This subsection does not apply
762 to an adopted budget in which the members of an association have
763 determined, by a majority vote at a duly called meeting of the
764 association, to provide no reserves or less reserves than
765 required by this subsection. However, prior to turnover of
766 control of an association by a developer to unit owners other
767 than a developer pursuant to s. 718.301, the developer may vote
768 to waive the reserves or reduce the funding of reserves for the
769 first 2 fiscal years of the association's operation, beginning
770 with the fiscal year in which the initial declaration is
771 recorded, after which time reserves may be waived or reduced
772 only upon the vote of a majority of all nondeveloper voting
773 interests voting in person or by limited proxy at a duly called
774 meeting of the association. If a meeting of the unit owners has
775 been called to determine whether to waive or reduce the funding
776 of reserves, and no such result is achieved or a quorum is not
777 attained, the reserves as included in the budget shall go into
778 effect. After the turnover, the developer may vote its voting
779 interest to waive or reduce the funding of reserves.

780 3. Reserve funds and any interest accruing thereon shall
781 remain in the reserve account or accounts, and shall be used
782 only for authorized reserve expenditures unless their use for
783 other purposes is approved in advance by a majority vote at a
784 duly called meeting of the association. Prior to turnover of

785 control of an association by a developer to unit owners other
786 than the developer pursuant to s. 718.301, the developer-
787 controlled association shall not vote to use reserves for
788 purposes other than that for which they were intended without
789 the approval of a majority of all nondeveloper voting interests,
790 voting in person or by limited proxy at a duly called meeting of
791 the association.

792 4. The only voting interests which are eligible to vote on
793 questions that involve waiving or reducing the funding of
794 reserves, or using existing reserve funds for purposes other
795 than purposes for which the reserves were intended, are the
796 voting interests of the units subject to assessment to fund the
797 reserves in question. The face of all ballots that involve
798 questions relating to waiving or reducing the funding of
799 reserves or using existing reserve funds for purposes other than
800 purposes for which the reserves were intended shall contain the
801 following statement in capitalized, bold letters in a font size
802 larger than any other used on the face of the ballot: WAIVING OF
803 RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATE USES OF
804 EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT
805 OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE RESERVE
806 ITEMS.

807 5. A vote to provide for no reserves or a percentage of
808 reserves shall be made at the annual meeting of the unit owners
809 called under paragraph (d). The division shall adopt the form
810 for the ballot for no reserves and a percentage of reserves.

811 6. Notwithstanding subparagraph 3., the association after
812 turnover of control of the association may, in case of a

813 catastrophic event, use reserve funds for nonscheduled purposes
814 to mitigate further damage to units or common elements or to
815 make the condominium accessible for repairs.

816 (g) Assessments.--The manner of collecting from the unit
817 owners their shares of the common expenses shall be stated in
818 the bylaws. Assessments shall be made against units not less
819 frequently than quarterly in an amount which is not less than
820 that required to provide funds in advance for payment of all of
821 the anticipated current operating expenses and for all of the
822 unpaid operating expenses previously incurred. Nothing in this
823 paragraph shall preclude the right of an association to
824 accelerate assessments of an owner delinquent in payment of
825 common expenses. Accelerated assessments shall be due and
826 payable on the date the claim of lien is filed. Such accelerated
827 assessments shall include the amounts due for the remainder of
828 the budget year in which the claim of lien was filed.

829 (h) Amendment of bylaws.--

830 1. The method by which the bylaws may be amended
831 consistent with the provisions of this chapter shall be stated.
832 If the bylaws fail to provide a method of amendment, the bylaws
833 may be amended if the amendment is approved by the owners of not
834 less than two-thirds of the voting interests.

835 2. No bylaw shall be revised or amended by reference to
836 its title or number only. Proposals to amend existing bylaws
837 shall contain the full text of the bylaws to be amended; new
838 words shall be inserted in the text underlined, and words to be
839 deleted shall be lined through with hyphens. However, if the
840 proposed change is so extensive that this procedure would

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841 hinder, rather than assist, the understanding of the proposed
842 amendment, it is not necessary to use underlining and hyphens as
843 indicators of words added or deleted, but, instead, a notation
844 must be inserted immediately preceding the proposed amendment in
845 substantially the following language: "Substantial rewording of
846 bylaw. See bylaw _____ for present text."

847 3. Nonmaterial errors or omissions in the bylaw process
848 will not invalidate an otherwise properly promulgated amendment.

849 (i) Transfer fees.--No charge shall be made by the
850 association or any body thereof in connection with the sale,
851 mortgage, lease, sublease, or other transfer of a unit unless
852 the association is required to approve such transfer and a fee
853 for such approval is provided for in the declaration, articles,
854 or bylaws. Any such fee may be preset, but in no event may such
855 fee exceed \$100 per applicant other than husband/wife or
856 parent/dependent child, which are considered one applicant.
857 However, if the lease or sublease is a renewal of a lease or
858 sublease with the same lessee or sublessee, no charge shall be
859 made. The foregoing notwithstanding, an association may, if the
860 authority to do so appears in the declaration or bylaws, require
861 that a prospective lessee place a security deposit, in an amount
862 not to exceed the equivalent of 1 month's rent, into an escrow
863 account maintained by the association. The security deposit
864 shall protect against damages to the common elements or
865 association property. Payment of interest, claims against the
866 deposit, refunds, and disputes under this paragraph shall be
867 handled in the same fashion as provided in part II of chapter
868 83.

869 (j) Recall of board members.--Subject to the provisions of
870 s. 718.301, any member of the board of administration may be
871 recalled and removed from office with or without cause by the
872 vote or agreement in writing by a majority of all the voting
873 interests. A special meeting of the unit owners to recall a
874 member or members of the board of administration may be called
875 by 10 percent of the voting interests giving notice of the
876 meeting as required for a meeting of unit owners, and the notice
877 shall state the purpose of the meeting. Electronic transmission
878 may not be used as a method of giving notice of a meeting called
879 in whole or in part for this purpose.

880 1. If the recall is approved by a majority of all voting
881 interests by a vote at a meeting, the recall will be effective
882 as provided herein. The board shall duly notice and hold a board
883 meeting within 5 full business days of the adjournment of the
884 unit owner meeting to recall one or more board members. At the
885 meeting, the board shall either certify the recall, in which
886 case such member or members shall be recalled effective
887 immediately and shall turn over to the board within 5 full
888 business days any and all records and property of the
889 association in their possession, or shall proceed as set forth
890 in subparagraph 3.

891 2. If the proposed recall is by an agreement in writing by
892 a majority of all voting interests, the agreement in writing or
893 a copy thereof shall be served on the association by certified
894 mail or by personal service in the manner authorized by chapter
895 48 and the Florida Rules of Civil Procedure. The board of
896 administration shall duly notice and hold a meeting of the board

897 within 5 full business days after receipt of the agreement in
898 writing. At the meeting, the board shall either certify the
899 written agreement to recall a member or members of the board, in
900 which case such member or members shall be recalled effective
901 immediately and shall turn over to the board within 5 full
902 business days any and all records and property of the
903 association in their possession, or proceed as described in
904 subparagraph 3.

905 3. If the board determines not to certify the written
906 agreement to recall a member or members of the board, or does
907 not certify the recall by a vote at a meeting, the board shall,
908 within 5 full business days after the meeting, file with the
909 division a petition for arbitration pursuant to the procedures
910 in s. 718.1255. For the purposes of this section, the unit
911 owners who voted at the meeting or who executed the agreement in
912 writing shall constitute one party under the petition for
913 arbitration. If the arbitrator certifies the recall as to any
914 member or members of the board, the recall will be effective
915 upon mailing of the final order of arbitration to the
916 association. If the association fails to comply with the order
917 of the arbitrator, the division may take action pursuant to s.
918 718.501. Any member or members so recalled shall deliver to the
919 board any and all records of the association in their possession
920 within 5 full business days of the effective date of the recall.

921 4. If the board fails to duly notice and hold a board
922 meeting within 5 full business days of service of an agreement
923 in writing or within 5 full business days of the adjournment of
924 the unit owner recall meeting, the recall shall be deemed

925 effective and the board members so recalled shall immediately
926 turn over to the board any and all records and property of the
927 association.

928 5. If a vacancy occurs on the board as a result of a
929 recall and less than a majority of the board members are
930 removed, the vacancy may be filled by the affirmative vote of a
931 majority of the remaining directors, notwithstanding any
932 provision to the contrary contained in this subsection. If
933 vacancies occur on the board as a result of a recall and a
934 majority or more of the board members are removed, the vacancies
935 shall be filled in accordance with procedural rules to be
936 adopted by the division, which rules need not be consistent with
937 this subsection. The rules must provide procedures governing the
938 conduct of the recall election as well as the operation of the
939 association during the period after a recall but prior to the
940 recall election.

941 (k) Arbitration.--There shall be a provision for mandatory
942 nonbinding arbitration as provided for in s. 718.1255.

943 (l) Certificate of compliance.--There shall be a provision
944 that a certificate of compliance from a licensed electrical
945 contractor or electrician may be accepted by the association's
946 board as evidence of compliance of the condominium units with
947 the applicable fire and life safety code. Notwithstanding the
948 provisions of chapter 633 or of any other code, statute,
949 ordinance, administrative rule, or regulation, or any
950 interpretation of the foregoing, an association, condominium, or
951 unit owner is not obligated to retrofit the common elements or
952 units of a residential condominium with a fire sprinkler system

953 or other engineered lifesafety system in a building that has
954 been certified for occupancy by the applicable governmental
955 entity, if the unit owners have voted to forego such
956 retrofitting and engineered lifesafety system by the affirmative
957 vote of two-thirds of all voting interests in the affected
958 condominium. However, a condominium association may not vote to
959 forego the retrofitting with a fire sprinkler system of common
960 areas in a high-rise building. For purposes of this subsection,
961 the term "high-rise building" means a building that is greater
962 than 75 feet in height where the building height is measured
963 from the lowest level of fire department access to the floor of
964 the highest occupiable story. For purposes of this subsection,
965 the term "common areas" means any enclosed hallway, corridor,
966 lobby, stairwell, or entryway. In no event shall the local
967 authority having jurisdiction require completion of retrofitting
968 of common areas with a sprinkler system before the end of 2014.

969 1. A vote to forego retrofitting may be obtained by
970 limited proxy or by a ballot personally cast at a duly called
971 membership meeting, or by execution of a written consent by the
972 member, and shall be effective upon the recording of a
973 certificate attesting to such vote in the public records of the
974 county where the condominium is located. The association shall
975 mail, hand deliver, or electronically transmit to each unit
976 owner written notice at least 14 days prior to such membership
977 meeting in which the vote to forego retrofitting of the required
978 fire sprinkler system is to take place. Within 30 days after the
979 association's opt-out vote, notice of the results of the opt-out
980 vote shall be mailed, hand delivered, or electronically

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981 transmitted to all unit owners. Evidence of compliance with this
982 30-day notice shall be made by an affidavit executed by the
983 person providing the notice and filed among the official records
984 of the association. After such notice is provided to each owner,
985 a copy of such notice shall be provided by the current owner to
986 a new owner prior to closing and shall be provided by a unit
987 owner to a renter prior to signing a lease.

988 2. As part of the information collected annually from
989 condominiums, the division shall require condominium
990 associations to report the membership vote and recording of a
991 certificate under this subsection and, if retrofitting has been
992 undertaken, the per-unit cost of such work. The division shall
993 annually report to the Division of State Fire Marshal of the
994 Department of Financial Services the number of condominiums that
995 have elected to forego retrofitting.

996 (m) Common elements; limited power to convey.--

997 1. With respect to condominiums created on or after
998 October 1, 1994, the bylaws shall include a provision granting
999 the association a limited power to convey a portion of the
1000 common elements to a condemning authority for the purpose of
1001 providing utility easements, right-of-way expansion, or other
1002 public purposes, whether negotiated or as a result of eminent
1003 domain proceedings.

1004 2. In any case where the bylaws are silent as to the
1005 association's power to convey common elements as described in
1006 subparagraph 1., the bylaws shall be deemed to include the
1007 provision described in subparagraph 1.

1008 Section 3. Subsections (6) and (7) are added to section

1009 718.113, Florida Statutes, to read:

1010 718.113 Maintenance; limitation upon improvement; display
 1011 of flag; hurricane shutters; display of religious decorations.--

1012 (6) Every 5 years, each board of administration shall have
 1013 the condominium buildings inspected by a professional engineer
 1014 or professional architect registered in the state for the
 1015 purposes of determining whether the buildings are structurally
 1016 and electrically safe and determining any immediate maintenance
 1017 required as well as any long-term maintenance necessary in the
 1018 form of a long-term maintenance plan. The long-term maintenance
 1019 plan shall include an executive summary that shall be
 1020 distributed to all unit owners. The engineer or architect shall
 1021 provide a report indicating the manner and type of inspection
 1022 forming the basis for the report and description of any matters
 1023 identified as requiring remedial action. The report shall become
 1024 an official record of the association and be provided to the
 1025 members upon request pursuant to s. 718.111(12).

1026 (7) The board of administration may not adopt any rule or
 1027 regulation impairing any rights guaranteed by the First
 1028 Amendment to the Constitution of the United States or s. 3, Art.
 1029 I of the Florida Constitution, including, but not limited to,
 1030 the free exercise of religion, nor may any rules or regulations
 1031 conflict with the provisions of this chapter or the condominium
 1032 instruments. A rule or regulation may not prohibit any
 1033 reasonable accommodation for religious practices, including the
 1034 attachment of religiously mandated objects to the front-door
 1035 area of a condominium unit.

1036 Section 4. Section 718.1224, Florida Statutes, is created

1037 to read:

1038 718.1224 Prohibition against SLAPP suits.--

1039 (1) It is the intent of the Legislature to protect the

1040 right of condominium unit owners to exercise their rights to

1041 instruct their representatives and petition for redress of

1042 grievances before the various governmental entities of this

1043 state as protected by the First Amendment to the United States

1044 Constitution and s. 5, Art. I of the State Constitution. The

1045 Legislature recognizes that strategic lawsuits against public

1046 participation, or "SLAPP suits" as they are typically referred

1047 to, have occurred when association members are sued by

1048 individuals, business entities, or governmental entities arising

1049 out of a condominium unit owner's appearance and presentation

1050 before a governmental entity on matters related to the

1051 condominium association. However, it is the public policy of

1052 this state that governmental entities, business organizations,

1053 and individuals not engage in SLAPP suits, because such actions

1054 are inconsistent with the right of condominium unit owners to

1055 participate in the state's institutions of government.

1056 Therefore, the Legislature finds and declares that prohibiting

1057 such lawsuits by governmental entities, business entities, and

1058 individuals against condominium unit owners who address matters

1059 concerning their condominium association will preserve this

1060 fundamental state policy, preserve the constitutional rights of

1061 condominium unit owners, and ensure the continuation of

1062 representative government in this state. It is the intent of the

1063 Legislature that such lawsuits be expeditiously disposed of by

1064 the courts. As used in this subsection, the term "governmental

1065 entity" means the state, including the executive, legislative,
 1066 and judicial branches of government; the independent
 1067 establishments of the state, counties, municipalities,
 1068 districts, authorities, boards, or commissions; or any agencies
 1069 of these branches which are subject to chapter 286.

1070 (2) A governmental entity, business organization, or
 1071 individual in this state may not file or cause to be filed
 1072 through its employees or agents any lawsuit, cause of action,
 1073 claim, cross-claim, or counterclaim against a condominium unit
 1074 owner without merit and solely because such condominium unit
 1075 owner has exercised the right to instruct his or her
 1076 representatives or the right to petition for redress of
 1077 grievances before the various governmental entities of this
 1078 state, as protected by the First Amendment to the United States
 1079 Constitution and s. 5, Art. I of the State Constitution.

1080 (3) A condominium unit owner sued by a governmental
 1081 entity, business organization, or individual in violation of
 1082 this section has a right to an expeditious resolution of a claim
 1083 that the suit is in violation of this section. A condominium
 1084 unit owner may petition the court for an order dismissing the
 1085 action or granting final judgment in favor of that condominium
 1086 unit owner. The petitioner may file a motion for summary
 1087 judgment, together with supplemental affidavits, seeking a
 1088 determination that the governmental entity's, business
 1089 organization's, or individual's lawsuit has been brought in
 1090 violation of this section. The governmental entity, business
 1091 organization, or individual shall thereafter file its response
 1092 and any supplemental affidavits. As soon as practicable, the

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1093 court shall set a hearing on the petitioner's motion, which
1094 shall be held at the earliest possible time after the filing of
1095 the governmental entity's, business organization's, or
1096 individual's response. The court may award the condominium unit
1097 owner sued by the governmental entity, business organization, or
1098 individual actual damages arising from the governmental
1099 entity's, individual's, or business organization's violation of
1100 this section. A court may treble the damages awarded to a
1101 prevailing condominium unit owner and shall state the basis for
1102 the treble damages award in its judgment. The court shall award
1103 the prevailing party reasonable attorney fees and costs incurred
1104 in connection with a claim that an action was filed in violation
1105 of this section.

1106 (4) Condominium associations may not expend association
1107 funds in prosecuting a SLAPP suit against a condominium unit
1108 owner.

1109 Section 5. This act shall take effect July 1, 2008.